

**IN THE UNITED STATES DISTRICT COURT  
OF THE EASTERN DISTRICT OF TEXAS  
TEXARKANA DIVISION**

**TERRY RAY BATTLE**

**V.**

**COMMISSIONER OF SOCIAL  
SECURITY**

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**No. 5:08CV74**

**ORDER DIRECTING FILING BRIEFS**

Pursuant to 28 U.S.C. 636(b), this action to review the final decision of the Secretary of Health and Human Services has been referred to the Magistrate Judge for review and report and recommendations, and

It appearing that defendant has filed an answer, it is **ORDERED** that counsel for the parties submit **BRIEFS** in accordance with the following requirements:

- (1) Within 45 days from the date of the receipt of this Order, plaintiff shall serve, file and submit to the Magistrate Judge a brief setting forth all errors which plaintiff contends entitle plaintiff to relief. The brief shall contain under the appropriate headings and in the order here indicated:
  - (a) A statement of the exact issues presented for review, set forth in separate numbered paragraphs.
  - (b) A statement of the case. This statement should indicate briefly the course of the proceeding and its disposition at the administrative level and should set forth a general statement of the facts. This statement of the facts shall include plaintiff's age, education and work experience; an outline of the medical

evidence; and a brief summary of other evidence of record. Each statement of fact shall be supported by reference to the page in the record where the evidence may be found.

- (c) An argument. The argument may be preceded by a summary. The argument shall be divided into sections separately treating each issue and must set forth the contentions of plaintiff with respect to the issues presented and reasons therefor. Each contention must be supported by specific reference to the portion of the record relied upon and by citations to statutes, regulations and cases supporting plaintiff's position. Cases from other districts and circuits should be cited only in conjunction with relevant cases from this jurisdiction or if authority on point from this jurisdiction does not exist. Citations to unreported district court opinions must be accompanied by a copy of the opinion. If plaintiff has moved for remand to the Secretary for further proceedings, the argument in support thereof must set forth good cause for remand. Furthermore, if the remand is for the purpose of taking additional evidence, such evidence must be attached to the brief or, if such evidence is in the form of a consultation examination sought at government expense, plaintiff must make a proffer of the nature of the evidence anticipated to be obtained.
  - (d) A short conclusion stating the relief sought. The issues before the court are limited to the exact issues properly raised in the briefs.
- (2) Within 60 days after service of plaintiff's brief, defendant shall serve, file and submit to the Magistrate Judge a brief which responds specifically to each issue raised by plaintiff, as well as a certified copy of the transcript of the administrative proceeding, with page numbers of exhibits specifically in the index. Defendant's brief shall conform to the requirements set forth above for plaintiff's brief, except that a statement of the issues and a statement of the case need not be made unless defendant is dissatisfied with plaintiff's statement thereof.

- (3) Plaintiff may serve, file and submit to the Magistrate Judge a brief in reply to the brief of the defendant within 10 days of service of defendant's brief.
- (4) Parties may not file motions for summary judgment without leave of court. Since the case will be decided after all briefs are received, it is unnecessary to file a motion for summary judgment.

**SIGNED this 15th day of July, 2008.**

  
CAROLINE M. CRAVEN  
UNITED STATES MAGISTRATE JUDGE